

No items qualify for the Pollution Control Facilities exemption in and of themselves. No transactions are exempt on the basis of the pollution control exemption unless certifications are obtained as described in 86 Ill. Adm. Code 130.335(a) of the Department's rules. (This is a GIL).

February 14, 2003

Dear Xxxxx:

This letter is in response to your letter dated November 13, 2002. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be found on the Department's website at www.revenue.state.il.us/Laws/regs/part1200/.

In your letter, you have stated and made inquiry as follows:

We purchase supplies and equipment for pollution control in order for us to perform our work. We would like to get a 'Private Letter Legal Ruling' to let us know if we qualify as a Pollution Control Facility under Title 86 Part 130 Section 130.335. Below is a list of supplies and equipment that we purchase and use in the field to protect our employees and third party personnel from asbestos and lead contamination:

- Personal Protection - Tyvek/Spunbound suits, booties and gloves.
- Respirators - PAPR and Half Face Respirators and filters, alcohol wipes.
- Containment Materials - plastic sheeting, adhesive tape, glue, poly duct, asbestos and lead signs, supplies for regulating work areas.
- Asbestos and Lead Abatement materials - glovebags, rags, encapsulants, surfactant, biomight, asbestos and lead cassettes, vacuum collection and filter bags.
- Pollution Control Equipment - HEPA Vacuums, Vacuum filtration equipment, Negative air machines, portable showers, decontamination units, Hudson sprayers, high volume and low volume air sampling pumps.
- UN.DOT approved Gaylord boxes and 55 gallon drums, 5 gallon buckets and hazardous waste labels.
- Pollution Control Filters for ventilation units that filter asbestos and lead contaminated air, pre-filters, ring filters, secondary filters and HEPA filters.

If we are deemed to be covered under Section 130.335 Pollution Control Facilities, please let us know what we need to do to obtain a tax exempt certificate and number to use when we purchase the above supplies to perform our work. If we do not need a tax exempt certificate or number we would like to know what we need to give our suppliers so we do not have to pay sales tax on the above mentioned supplies.

Thank you for your attention to this matter. If you have any questions or concerns please call me.

For your information, we have enclosed a copy of 86 Ill. Adm. Code 130.335 concerning Pollution Control Facilities. The pollution control facilities exemption extends to "any system, method, construction, device or appliance appurtenant thereto sold or used or intended for the primary purpose of eliminating, preventing, or reducing air and water pollution as the term "pollution" is defined in the Environmental Protection Act (415 ILCS 5/1 et seq.), or for the primary purpose of treating, pretreating, modifying or disposing of any potential solid, liquid or gaseous pollutant which if released without such treatment, pretreatment, modification or disposal might be harmful, detrimental or offensive to human, plant or animal life, or to property."

No items qualify for the Pollution Control Facilities exemption in and of themselves. No transactions are exempt on the basis of the pollution control exemption unless certifications are obtained as described in 86 Ill. Adm. Code 130.335(a) of the Department's rules. Items that can be used in both qualifying and non-qualifying activities must be used in qualifying activities before the exemption has application.

It is important to note that it has been the Department's long-standing position that equipment whose primary purpose is to confer an economic benefit does not qualify for the pollution control facilities exemption. This exemption includes not only the pollution control equipment itself, but also replacement parts therefor, but does not extend to chemicals used in or in conjunction with the equipment unless they are an integrated part of the pollution control equipment. The exemption also does not apply to fuel used in operating any such equipment or to any other tangible personal property which may be used in some way in connection with such equipment, but which is not an integral part of the equipment itself. 86 Ill. Adm. Code 130.335(a).

In general, air purification and filtration equipment can qualify for the pollution control exemption so long as its primary purpose is treating or disposing of pollutants in the air which if remained in the air without such treatment or disposal would be offensive to human, plant, or animal life or to property.

Items generally qualify for the pollution control facilities exemption if they are used in an asbestos abatement system. Items that do not qualify include tools (such as staple guns, utility knives, hammers, and screwdrivers) that are used to construct a pollution control facility. The provisions of subsection 130.335(a)(1) list many items found in an asbestos removal system that qualify for the exemption. Warning signs and labels will qualify if OSHA and EPA require them for the removal of asbestos.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.